

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

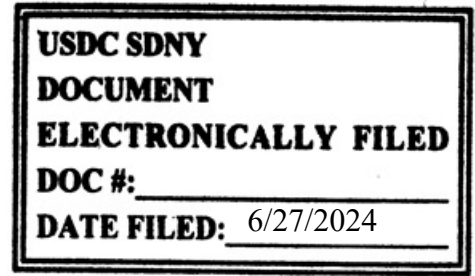
SERGEI MOROSHKIN,

Plaintiff,

-against-

NATIONAL COUNCIL ON THE AGING, et al.,

Defendants.



23-CV-01301 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

On May 20, 2024, Defendant El-Nashar filed a motion to dismiss the Amended Complaint. Dkt. No. 17. Defendant El-Nashar filed a Declaration of Service with the motion to dismiss, which shows that Defendant El-Nashar mailed the motion to dismiss and all supporting documents to Plaintiff on May 20, 2024, the same day the motion to dismiss was filed. Dkt. No. 18-1. On May 21, 2024, the Court set a briefing schedule for Defendant El-Nashar's motion to dismiss. *See* Dkt. No. 19. Under such schedule, Plaintiff was to file his opposition by June 28, 2024, and Defendant El-Nashar was to file any reply by July 8, 2024. *Id.* Although this Order gave Plaintiff until **June 28, 2024** to oppose the motion to dismiss, Plaintiff filed a substantive "notice of opposition to [the] motion to dismiss" on **May 28, 2024**. *See* Dkt. No. 21.

On June 12, 2024, Plaintiff filed a motion for sanctions against counsel for Defendant El-Nashar for "obstructive behavior" for the alleged delay in serving the motion to dismiss, because, according to Plaintiff, he did not receive the Defendant's motion until 18 days after its filing. Plaintiff further claimed that, due to the delay in receiving the motion, he had to file his opposition before he had received or read the motion to dismiss; however, as noted above, it appears Plaintiff was confused about the date his opposition was due, since he was not required to respond until **June 28**, although he filed his opposition on **May 28**. *See* Dkt. No. 26 at 1–2.¹ On June 24, 2024, Defendant El-Nashar filed an opposition to Plaintiff's motion for sanctions. *See* Dkt. No. 27.

Because the proof of service indicates that the Defendant promptly served its motion to dismiss in accordance with the rules, and because Defendant is not responsible for the delay in Plaintiff's actual receipt of the motion, it is hereby ORDERED that Plaintiff's motion for sanctions (Dkt. No. 26) is DENIED. It is further ORDERED that, under the circumstances, Plaintiff may, if he wishes now that he has received Defendant's brief, file any further opposition to Defendant's motion to dismiss (Dkt. No. 17) by **July 26, 2024**, and Defendant Siveem El-Nashar shall file any reply by **August 2, 2024**.

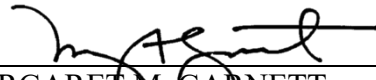
¹ Plaintiff Moroshkin filed his motion for sanctions on June 12, 2024; however, the motion was not docketed until June 24, 2024. *See* Dkt. No. 26.

Plaintiff is encouraged to consent to accept service of documents by email, instead of by regular mail, by completing this form: [Consent to Electronic Service](#). While Plaintiff is under no obligation to consent to electronic service, if Plaintiff is able to receive documents electronically, that will greatly expedite his receipt of such documents and maximize the time that he will have to prepare and file his responses.

The Clerk of Court is respectfully directed to terminate Dkt. No. 26 and mail a copy of this Order to Plaintiff.

Dated: June 27, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge